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12 Attorneys for Defendants  
13 COUNTY OF SAN MATEO, CHILD PROTECTIVE SERVICES OF SAN MATEO,  
14 and CHILDREN AND FAMILY SERVICES OF COUNTY OF SAN MATEO  
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17 UNITED STATES DISTRICT COURT  
18  
19 NORTHERN DISTRICT OF CALIFORNIA

20 YAN HE, an individual and successor in interest to  
21 the ESTATE OF BRIAN PAN; BIN PAN, an  
22 individual and successor in interest to the ESTATE  
23 OF BRIAN PAN,

24 Plaintiffs,

25 v.

26 COUNTY OF SAN MATEO, a public entity; CHILD  
27 PROTECTIVE SERVICES OF SAN MATEO, a  
28 public entity; CHILDREN AND FAMILY  
SERVICES OF COUNTY OF SAN MATEO, a public  
entity; JAMES NAVARRA, an individual; ALICE  
NAVARRA, an individual; and DOES 1 through 100,  
inclusive.,

29 Defendants.

30 Case No. 23-cv-3407

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**NOTICE OF REMOVAL  
PURSUANT TO 28 U.S.C. § 1441(A)  
(FEDERAL QUESTION)**

1           **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

2           **PLEASE TAKE NOTICE THAT** Defendants COUNTY OF SAN MATEO, CHILD  
3 PROTECTIVE SERVICES OF SAN MATEO, and CHILDREN AND FAMILY SERVICES OF  
4 COUNTY OF SAN MATEO (hereinafter “County Defendants”) hereby remove to this Court the state  
5 court action described below:

6           On June 20, 2023, an action was commenced in the Superior Court of California, County of San  
7 Mateo, entitled *YAN HE, an individual and successor in interest to the ESTATE OF BRIAN PAN; BIN*  
8 *PAN, an individual and successor in interest to the ESTATE OF BRIAN PAN, Plaintiffs, vs. COUNTY*  
9 *OF SAN MATEO, a public entity; CHILD PROTECTIVE SERVICES OF SAN MATEO, a public entity;*  
10 *CHILDREN AND FAMILY SERVICES OF COUNTY OF SAN MATEO, a public entity; JAMES*  
11 *NAVARRA, an individual; ALICE NAVARRA, an individual; and DOES 1 through 100, inclusive,*  
12 *Defendants*, as San Mateo County case number 23-CIV-01641. (A true and correct file-endorsed copy of  
13 the state court complaint is attached hereto as **Exhibit A**.)

14           The first date upon which County Defendants received a copy of the complaint was June 21, 2023,  
15 when County Defendants were served with a copy of said complaint and summons from the state court.  
16 (A copy of the state court summons is attached hereto as **Exhibit B**.)

17           **I.         JURISDICTION**

18           Pursuant to Northern District of California Local Rule 3-5(a), this action is a civil action of which  
19 this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this  
20 Court by County Defendants pursuant to 28 U.S.C. § 1441(a) in that it arises, in part, under 42 U.S.C. §  
21 1983 (see, Ex. A, Fifth Cause of Action).

22           **II.      EXPLANATION FOR NON-JOINDER OF REMAINING DEFENDANTS DUE TO NON-**  
23           **SERVICE OF COMPLAINT**

24           The two remaining defendants in this case, Alice Navarra and James Navarra, have not been joined  
25 because these defendants have not been served with the complaint. Those named as defendants but not  
26 yet served with the complaint in the state court action need not join the notice of removal. See, *Destfino*  
27 v. *Reiswig* (9<sup>th</sup> Cir. 2011) 630 F.3d 952, 955 [co-defendants not properly served need not join]; see also,  
28 *Northern Ill. Gas Co. v. Airco Industrial Gases* (7<sup>th</sup> Cir. 1982) 676 F.2d 270, 272 [removal notice

1 defective if it fails to explain absence of co-defendants].

2 A review of the state court's docket and records establishes that, as of the date of the filing of this  
3 Notice of Removal, Plaintiffs have not filed a proof of service establishing that the Navarra co-  
4 defendants having been properly served with the state court complaint.

5 Additionally, on July 6, 2023, counsel for County Defendants spoke with Plaintiffs' counsel on the  
6 telephone and was informed that Plaintiffs' counsel was "still working" on getting the Navarra co-  
7 defendants served. See, *Gossmeyer v. McDonald* (7<sup>th</sup> Cir. 1997) 128 F.3d 481, 489 [a defendant who has  
8 been served need not seek out and notify co-defendants who have not been served to ask them to join in  
9 the removal].

10 Last, a copy of the Joint Stipulation and Order granting Plaintiff Yan He's Government Code section  
11 946.6 Petition that is on file with the state court is attached hereto as **Exhibit C**. This stipulation  
12 includes, among other things, that County Defendants will file a responsive pleading within 75 days of  
13 service of the complaint. (Ex. C, ¶ 4.)

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16 Dated: July 7, 2023

Respectfully submitted,

17 JOHN D. NIBBELIN, COUNTY COUNSEL

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19 By: /s/ Joseph F. Charles

20 Joseph F. Charles, Deputy

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22 Attorneys for Defendants  
23 COUNTY OF SAN MATEO, CHILD  
24 PROTECTIVE SERVICES OF SAN MATEO,  
25 and CHILDREN AND FAMILY SERVICES OF  
26 COUNTY OF SAN MATEO  
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